

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	
SERVICE; (2) AN ORDER APPROVING ITS 2017)	
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN)	CASE NO.
ORDER APPROVING ITS TARIFFS AND)	2017-00179
RIDERS; (4) AN ORDER APPROVING)	
ACCOUNTING PRACTICES TO ESTABLISH)	
REGULATORY ASSETS AND LIABILITIES; AND)	
(5) AN ORDER GRANTING ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

On October 26, 2021, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment until February 7, 2022, for materials filed as required by the Commission’s January 18, 2018 Order.

In support of its motion, Kentucky Power argued that these records are exempt from public disclosure under KRS 61.878(1)(c)(1) as “[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” Kentucky Power characterizes these records as Fixed Resource Requirement/Reliability Pricing Model (FRR/RPM) election analysis. The designated material includes the analyses and FRR/RPM elections made by Kentucky Power and other American Electric Power

Company, Inc. (AEP) operating companies that operate in the PJM Interconnection LLC (PJM) Base Residual Auction of the PJM 2022/2023 planning year. Kentucky Power argued that this information is used in the PJM Base Residual Auction bidding process, and public disclosure would permit its competitors to alter their bidding strategies to Kentucky Power's detriment.

Having considered the motion and the material at issue, the Commission finds that this information is generally recognized as confidential or proprietary. The document at issue includes planned bid amounts and calculations demonstrating how this bid was arrived at. Competitors bidding in this auction could use this information to manipulate the bidding process to Kentucky Power's detriment. In addition, confidential treatment was previously granted in this case for an earlier version of this document.¹ It therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection until February 7, 2022, or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

¹ Order (Ky. PSC Apr. 23, 2021).

4. Kentucky Power shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kentucky Power shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky Power is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Kentucky Power to seek a remedy afforded by law.

By the Commission

Chairman Kent Chandler did not participate in the deliberations or decision concerning this case.



ATTEST:


Executive Director

Case No. 2017-00179

*William H May, III
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Kentucky Power Company
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Barry Alan Naum
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Kenneth J Gish, Jr.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KENTUCKY 40507

*Carrie M Harris
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Janice Theriot
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Don C Parker
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Elizabeth Sekula
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Laurence J Zielke
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Gregory T Dutton
Frost Brown Todd, LLC
400 West Market Street
32nd Floor
Louisville, KENTUCKY 40202-3363

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Mark E Heath
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Hector Garcia-Santana
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Morgain Sprague
Kentucky League of Cities
101 East Vine Street
Suite 800
Lexington, KENTUCKY 40507

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Ranie Wohnhas
Managing Director
Kentucky Power Company
855 Central Avenue Suite 200
Ashland, KENTUCKY 41101

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507